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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0177]; [Docket No. 2015-0076; Sequence 27]

Submission to OMB for Review; Federal Acquisition

Regulation; Reporting Executive Compensation and First-Tier

Subcontract Awards

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request for a new information collection requirement for Reporting Executive Compensation and First-tier Subcontract Awards. A notice soliciting public comments on the information collection was published in the Federal Register at 79 FR 60468, on October 7, 2014. No comments were received.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments identified by Information Collection 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000-0177. Select the link "Comment Now" that corresponds with "Information Collection 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards." Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "Information Collection 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street, NW, Washington, DC 20405.

- Instructions: Please submit comments only and cite "Information Collection 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards," in all correspondence related to this collection. All comments received will be posted without change to

<http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, Office of Government-wide Policy, contact via telephone 703-605-2868 or e-mail to mahruba.uddowla@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Funding Accountability and Transparency Act ("Transparency Act"), Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252, was enacted to reduce "wasteful and unnecessary spending" by requiring that OMB establish a free, public, online database containing full disclosure of all Federal contract award information for awards of \$25,000 or more.

DoD, GSA, and NASA published an interim rule for public comment at 75 FR 39414, on July 8, 2010, to implement the Transparency Act reporting requirements. The rule requires the insertion of FAR clause 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, in solicitations and contracts (including commercial item contracts and commercially available off-the-shelf (COTS) item contracts) of \$25,000 or more.

The clause at 52.204-10 requires, unless otherwise directed by the contracting officer, for first-tier subcontracts valued at \$25,000 or more, prime contractors to report first-tier subcontract award data (e.g., name, amount, address, etc.). If the contractor in the previous tax year had gross income, from all sources, under \$300,000, the contractor is exempt from the requirement to report first-tier subcontractor awards. If a first-tier subcontractor in the previous tax year had gross income from all sources under \$300,000, the contractor does not need to report awards to that first-tier subcontractor. Contractors will provide these subcontract reports to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) (<http://www.fsrs.gov>). DoD, GSA, and NASA note that there is pre-population of some data in FSRS from other Government systems.

The clause at 52.204-10 also requires a contractor to report in the System for Award Management (SAM) database at <https://www.sam.gov>, the names and total compensation of each of its five most highly compensated executives for the contractor's preceding completed fiscal year. Contractors and first-tier subcontractors are not required to report the total compensation information required by the rule, unless –

(i) In the contractor or subcontractor's preceding fiscal year, the contractor or subcontractor received –

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenue from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

B. Annual Reporting Burden

The total annual burden associated with the reporting requirements of FAR 52.204-10 is estimated to be \$33,230,972.

1. Reporting first-tier subcontract award information.

The FY13 Federal Procurement Data System (FPDS) data collected for new contract actions valued at \$25,000 or

greater, indicated that there were 155,292 contractors with unique DUNS numbers. It is estimated that based on the exemptions in the rule (e.g., contractors in the previous tax year with less than \$300,000 in gross income do not have to report), seventy-five percent of the contractors with actions valued at \$25,000 or greater would be subject to the reporting requirements, which would be 116,469 contractors. The burden to report the subcontractor award information (e.g., name, amount, address, etc.) under FAR 52.204-10 is estimated to average 2 hours per response for a prime contractor and approximately three first-tier subcontractors per prime contractor. We estimate the total annual public cost burden for these elements to be \$30,747,816 based on the following:

Respondents: 116,469.

Responses per respondent: 3.

Total annual responses: 349,407.

Preparation hours per response: 2.

Total response burden hours: 698,814.

Average hourly wages (\$33.00 + 36.25% overhead.

Rounded to nearest dollar): \$45.00

Estimated cost to the public: \$30,747,816

2. Reporting executive compensation. There were 367,875 active registrants in SAM as of September 17, 2014.

Of the 367,875 total active registrants, 360,000 were screened out by two questions supporting the rule's requirements, *i.e.*, didn't have 80% or more of their annual gross revenue in U.S. Federal contracts, grants, and/or cooperative agreements and didn't make more than \$25 million in annual gross revenue, or did have 80% or \$25 million from Federal contracts/grants/cooperative agreements, but the public already had access to the information. It is estimated that it would require those 360,000 registrants 0.10 hours per response, for a total of 36,000 response hours.

A total of 7,875 SAM registrants would be required to enter actual values for their top five most highly compensated executives. It is estimated that it would require these 7,875 registrants 2.5 hours to provide the information required, for a total of 19,688 response hours.

Therefore, it is estimated that the total population of respondents is 367,875, and the total estimated response hours is 55,688, resulting in a weighted average of 0.15 hours per respondent for executive compensation reporting.

The Councils estimate the total annual public cost burden for this element to be \$2,483,156 based on the following:

Respondents: 367,875.

Responses per respondent: 1.

Total annual responses: 367,875.

Preparation hours per response: 0.15.

Total response burden hours: 55,181.

Average hourly wages: (\$33.06+36.25%overhead): \$45.00

Estimated cost to the public: \$2,483,156.

Based on the above calculations, DoD, GSA, and NASA estimate the total annual burden associated with reporting requirements of FAR 52.204-10 to be \$33,323,972. The reporting burden includes the time for reviewing instructions, and reporting the data. It does not cover the time required to conduct research or the time to obtain the information for the data elements.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond,

through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards, in all correspondence.

Dated: June 18, 2015.

Edward Loeb,
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